

RICHMOND POLICE DEPARTMENT



11-19 INTERNAL AFFAIRS OPERATING MANUAL

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Chief of Police or Designee

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Table of Contents

I. Purpose	3
II. Policy.....	3
III. General Procedure.....	3
General Responsibilities of all Officers and Employees	
General Responsibilities of Supervisors	
General Responsibilities of the Internal Affairs Division	
IV. Specific Procedures and Responsibilities.....	16
Investigation and Interviewing of Employees	
Adjudication of Investigations	
Maintenance of Records	
V. Polygraph Policy.....	18
VI. Criminal Investigation of Police Employees.....	19
VII. Job Performance Early Intervention Tracking System.....	19
VIII. Random Drug Screening.....	21

PURPOSE

The internal affairs function is important for the maintenance of professional conduct in the Richmond Police Department. The integrity of the Department depends on the professional integrity and discipline of each employee. To a large degree, the public image of the Department is determined by the quality of the internal affairs function in responding to allegations of misconduct by the Department and its employees.

The Internal Affairs Division's primary responsibility is the processing of all citizen complaints and maintaining staff control over the process on behalf of the Chief of Police. Additionally, the Internal Affairs Division completes numerous fact finding investigations for the Chief of Police and the Office of the City Attorney. The Internal Affairs Division is also the repository for data relating to complaints and to the use of force.

The Major in charge of the Office of Professional Responsibility is responsible for the internal affairs function within the department and as a member of the Executive Command Staff, maintains the authority to report directly to the Chief.

POLICY

It is the policy of the Richmond Police Department to impartially investigate all complaints, including those that are anonymously reported, to equitably determine whether the allegations are valid or invalid and to take appropriate action. Internal investigations will be conducted in a fair and impartial manner to ensure that the quality and/or integrity of the investigation is not compromised. The Internal Affairs Unit will maintain a record of all complaints against the Department and its employees and all internal affairs investigations shall be confidential and kept in a controlled, secured area. Incidents covered by this directive include alleged or suspected violations of law and/or Department policies and procedures, and/or City Regulations.

The Department places the utmost emphasis on integrity and ethics and as such, conducts proactive integrity testing.

GENERAL PROCEDURE

General Responsibilities of all Officers and Employees

All employees, when made aware that an individual wants to make a complaint about a police employee, will immediately notify a supervisor.

All employees will cooperate fully with personnel of the Internal Affairs Division (IAD) or any other member of the Department conducting internal investigations.

Employees do not have a "right to remain silent" in an administrative investigation and are required to fully and truthfully answer all questions relating to the performance of their official duties or their fitness for office, provided they are advised that information contained in their answers cannot be used against them in a subsequent criminal proceeding (refusal to cooperate in an internal administrative investigation is grounds for disciplinary action, up to and including termination).

General Responsibilities of Department Supervisors

All police supervisors will accept any complaint of misconduct against any Richmond Police officer/employee, regardless of the circumstances under which the complaint is made or whether it is made anonymously or how the information is relayed. Supervisors are not to direct citizens to another location to file a complaint.

The supervisor shall ensure that the on-call IAD investigator is notified for any serious allegation. The supervisor may also contact the on-call IAD investigator for any advice and assistance needed.

The supervisor receiving the information must first determine, if in fact, the citizen is making an allegation of misconduct on the part of a police employee. There are instances in which citizens wish to “complain” about actions which are not improper, or in which their complaint deals with Department policy rather than the actions of an individual officer. In these cases, preparing an Initiation of Employee Investigation form (PD-2) naming an individual officer only confuses the issue, and is a disservice to the citizen, the officer and the Department. The obligation of the supervisor in this case is to explain the appropriate policies and procedures to the complainant, and why the information is not a valid complaint. If the complainant insists that he/she wants to make a formal complaint, the supervisor must inform the citizen that there is no basis for the complaint, but that the citizen may fill out and sign a Complainant/Officer Statement (PD-118) and forward it to the Internal Affairs Division for further review. The supervisor will facilitate providing the PD-118 to the citizen by referring the citizen to the RPD website or by offering to mail or deliver the PD-118 to the citizen.

When the supervisor determines that a complaint is a specific allegation of misconduct and should be investigated, the supervisor shall attempt to resolve the complaint immediately. The supervisor will give the complainant(s) an opportunity to complete the PD-118 and will have any involved employees fill out PD-118s relating to the incident or allegation, and attempt to complete the investigation at that time.

Serious, credible complaints against police employees require thorough investigations. However, there are also spurious complaints against police officers which are made for the purpose of harassing the officer or attempting to gain some advantage in a court case or to intimidate officers from performing their duties. The need to use RPD resources to investigate serious and credible complaints of wrongdoing also imposes an obligation to not waste time and resources on spurious complaints. In conducting the initial investigation, the supervisor will be aware of the following indicators of spurious complaints:

- The complainant’s story keeps changing;
- The complainant states or implies that complaint will go away if his charges go away;
- The complainant’s allegations do not match the available physical evidence or independent witness statements; and,
- The complainant is known to have a history of making an excessive number of complaints against police officers.

Remember that the presence of any of these factors does not necessarily mean that a complaint is invalid. The supervisor will look at the totality of the circumstances and make a decision based upon all factors. The standard of proof in internal investigations is the preponderance of the evidence, whatever is most likely to be the fact.

Following the initial investigation, the supervisor will fill out a PD-2, including all investigatory information and PD-118s, and will recommend a disposition for the complaint. The supervisor shall fax and/or hand-deliver a copy to IAD, if during normal business hours, as well as forwarding the PD-2, all PD-118s and supporting information through channels to IAD. The relevant complaint tracking number shall be affixed to each document, if available.

Any supervisor observing or learning of alleged misconduct or receiving a citizen complaint, shall notify the Internal Affairs Division before his/her end of tour.

Between the hours of 0800-1600, Monday thru Friday, an Internal Affairs Detective is available to accept complaints by call 804-646-6816. Holidays and all other hours, complaints can be reported by calling the on-call Internal Affairs Division Supervisor. The IAD supervisor shall log the complaint, issue a tracking number and direct the official to either fax or hand-carry a copy of all relevant documents, i.e. PD-2's, preliminary report, etc., associated with the complaint to the Major-In-Charge of the individual assigned area and Internal Affairs.

General Responsibilities of the Internal Affairs Division

1. IAD shall coordinate and exercise staff supervision on behalf of the Chief of Police over the investigation of complaints or allegations of police misconduct against members of the Department.
2. IAD will conduct criminal investigations of incidents or complaints of excessive force, or of assaults committed by police officers during the course of their official duties. The criminal investigation will be conducted in accordance with standard procedures for IAD criminal investigations. (General Order 1-5, Use of Force)
3. IAD will conduct administrative investigations of excessive force complaints or incidents at the conclusion of the criminal investigation. (General Order 1-5, Use of Force)
4. IAD will refer complaints of rudeness, harassment, improper or unlawful arrest, failure to take necessary action and minor code of conduct violations to the affected Service to be investigated, unless the following or other factors indicate that IAD should conduct the investigation: the seriousness of the alleged violations, a previous history of similar complaints against the accused employee and/or the ability of the affected Service to conduct the investigation.
5. IAD will notify the Chief of Police immediately of matters involving the integrity of the Department or when police personnel are accused or suspected of violations of the law.
6. IAD may conduct an investigation at the request of any member or employee of the Department who feels threatened, in any substantive manner. Such persons are authorized to report their situation directly to the OIC of the Internal Affairs Division without reporting to his/her supervisor.

7. IAD will conduct fact-finding investigations as directed by the Chief of Police.
8. IAD will review all Use of Force Reports (PD-35) and any O.C. Spray/Medical Services Rendered Form (PD-35A), if applicable, for completeness and compliance with policy.
9. IAD will conduct prompt and diligent discrimination investigations that cannot be appropriately addressed at the immediate supervisor level.
10. IAD will complete investigations within seventy-five (75) working days unless an extension is granted by the Chief of Police.
11. IAD will conduct Integrity Tests as directed by the Chief of Police.
12. IAD will compile annual statistical summaries, based upon records of internal affairs investigations, which will be made available to the public and Department employees, when requested.
13. Annually, IAD will complete a documented administrative review of the Department's practices concerning bias-based profiling. This review will include:
 - An analysis of citizen complaints, comments and/or concerns received regarding bias-based profiling
 - An overview of the training conducted
 - Recommendations, if any, for changes in policies, procedures, practices or training.

IAD will perform other duties as directed by the Chief of Police.

The Internal Affairs Division's primary responsibility is the processing of all citizen complaints and maintaining staff control over the process on behalf of the Chief of Police. Additionally, the Internal Affairs Division completes numerous fact finding investigations for the Chief of Police and the Office of the City Attorney. The Internal Affairs Division is also the repository for data relating to complaints and to the use of force.

RECEIPT OF CITIZEN COMPLAINTS

Internal Affairs investigators shall receive citizen complaints, either in person, by telephone, by letter, fax or E-mail. They may be taken either signed or unsigned, or made anonymously.

- ◆ Complainant's statements should be recorded, if possible, to provide for detail and accuracy.
- ◆ Obtain details of the alleged incident and the nature of the complaint.
- ◆ Obtain complete name, address and contact information of the complainant.
- ◆ Determine the course of action requested by the complainant regarding whether they desire the "Formal" or "Informal" complaint process.

- ◆ A PD-82, “Citizen Complaint Form” should be completed including as much detail as practical to provide at least the basic who, what, when, where, why and how of the alleged incident. A recommendation should then be made as to the course of action, i.e. handled by Services or by the Internal Affairs Division.

FORMAL COMPLAINT– INVESTIGATED BY INTERNAL AFFAIRS

- ◆ Obtain a folder and assign an Internal Affairs control number to the investigation.
- ◆ Record the required information in the Internal Affairs log book and in the Records Management System (PISTOL) IAD module.
- ◆ The Administrative Specialist will record the pertinent information on the Internal Affairs Officer’s Control Card.
- ◆ Notify the affected officer when appropriate. (Use form)
- ◆ Proceed with the investigative process as necessary, including interviews. (Use PD-22)
- ◆ Complete the investigative report in the standard format.
 1. Narrative
 2. Complainant(s) involved
 3. Complainant(s) statement
 4. Officer(s) involved
 5. Involved officer(s) statement
 6. Police witness statement(s)
 7. Civilian witness statement(s)
 8. Investigation
 9. Summary and conclusion
 10. Recommendations
 11. Attachment page
- ◆ Submit the investigation to the chain-of-command for review.
- ◆ After the review, finalize the investigative report, making any corrections and additions as necessary.
- ◆ After final review, a cover sheet completed by the Officer-in-Charge should be attached to a completed copy of the investigation. The investigation is then hand carried to the office of the affected Major or Deputy Chief. A signed tracking sheet should be obtained and returned to the Internal Affairs Division. The original copy of the investigation should be stamped “Control Copy” and given to the Administrative Specialist for filing.

- ◆ Record the pertinent information on the complainant card as a cross reference to the investigation.
- ◆ Upon return of the investigative package, the Administrative Specialist will record the disposition on the Officer's Internal Affairs Control Card.
- ◆ Record the disposition on the complainant's card.
- ◆ Record in the appropriate log book the date the investigation is returned to Internal Affairs and the disposition.
- ◆ Complete the letter to the officer with the disposition. Send the letter to the supervisor of the subject officer. (If the investigation is substantiated, the affected Major or Deputy Chief will notify the officer.)
- ◆ Record in the "Notification to Officers" book the date notification was sent to the officer and the date a copy of the letter is returned to Internal Affairs.
- ◆ File the investigative package with the Control Copy of the investigation.

FORMAL COMPLAINT-INVESTIGATED BY SERVICES

- ◆ Complete a PD-82, Citizen Complaint Form.
- ◆ Obtain a folder and assign an Internal Affairs control number to the investigation.
- ◆ Complete the Services Investigation Report cover sheet and attach the following documents:
 1. Letter to the Major or Deputy Chief.
 2. PD-82, Citizen Complaint Form.
 3. Notification of Pending Investigation to the officer.
 4. Letter to complainant.
 5. Any additional documentation.
- ◆ Record the required information in the Internal Affairs log book and in the Records Management System (PISTOL) IAD module.
- ◆ Make a copy of the complete package and place the originals in the file folder. Stamp the original as the "Control Copy."
- ◆ Attach a tracking sheet to the copy of the investigative report
- ◆ Hand deliver the package to the office of the Major or Deputy Chief of the affected service. Obtain a signed receipt of the tracking report and return the tracking form to the IAD. The "Control Copy" will be given to the Administrative Specialist for her to process her records.

- ◆ The Administrative Specialist will record the pertinent information on the Internal Affairs Officer's Control Card.
- ◆ Record the pertinent information on the complainant card as a cross reference to the investigation.
- ◆ File the folder in the Investigations file drawer.

Upon return of the investigative package, the Administrative Specialist will record the disposition on the Officer's Internal Affairs Control Card.

- ◆ Record the disposition on the complainant's card.
- ◆ Record in the appropriate log book the date the investigation is returned to Internal Affairs and the disposition.
- ◆ Complete the letter to the officer with the disposition. Send the letter to the supervisor of the subject officer. (If the investigation is substantiated, the affected Major or Deputy Chief will notify the officer.)
- ◆ Record in the "Notification to Officers" book the date the letter was sent to the officer and the date a copy of the letter is returned to Internal Affairs.
- ◆ File the investigative package with the Control Copy of the investigation.

INFORMAL COMPLAINTS

If the complainant is satisfied with the resolution offered by the Internal Affairs Investigator and wishes to have the matter handled "informally", the following shall be done:

- Complete a PD-2 "Preliminary Report – Citizen Complaint" as normal.
- Obtain a folder and assign an Internal Affairs control number to the investigation.
- Record the required information in the Internal Affairs log book and in the Records Management System (PISTOL) IAD module.
- Make a recommendation that the matter be handled "informally" and notify the supervisor of the affected officer of the nature of the complaint and the fact the complainant is satisfied for the matter to be handled informally, by the supervisor(s) of the affected employee. Make notation on the PD-82 of the action taken. Submit PD-82 to your supervisor for review. After approval, file on the preliminary board and name file of the affected officer.

City Attorney's Request for Information

The Office of the City Attorney will forward, through the RPD's Office of the Inspector General, requests to provide information pertaining to a claim made against the City that involved the actions of the Police Department. Upon receipt of this written memo in the Internal Affairs Division, the case will be assigned to an investigator to handle the matter.

As had been the standard practice, the City Attorney does not want "new" material generated after a claim has been initiated. However, any "existing" information should be assembled for the report. Any type of documentation should be collected, to include police reports, letters, photographs, and audio-video. After assembling the necessary documentation, an IAD number will be assigned to the matter. This will be a fact finding investigation and not a complaint. This information will be recorded in the Internal Affairs Investigation log book.

A narrative will be completed describing what occurred during the incident in question. This should be completed in the standard format for a fact finding investigation (i.e. background, investigation, conclusion, and attachments). The investigative letter should be addressed to the City Attorney from the Chief of Police. The OIC of the Internal Affairs Division will sign the letter for the Chief. The original (Control Copy) will be maintained in the Internal Affairs Division. Copies of the investigation will be forwarded to the OIG for forwarding to the City Attorney. An "Investigation Tracking Record" cover sheet will be signed when the copy is delivered to these persons. The Control Copy of the investigation will be given to the Internal Affairs Administrative Specialist to File.

Fact Finding Investigations

Fact Finding Investigations are initiated at the direction of the Chief of Police, Assistant Chief, Deputy Chief, Majors, or the OIC of the Internal Affairs Division. Fact Finding Investigations are not "citizen complaints" but rather investigations into matters involving issues of concern to the Department. These may include issues involving integrity, compliance with General and Operational Orders and criminal misconduct by police officers. The Fact Finding Investigations will be handled by the Internal Affairs Division and/or Services, as deemed necessary.

Upon the receipt of a request for a fact finding investigation, either verbal or written, from an authorized person, the Internal Affairs Division will evaluate the matter, and determine the best investigative course of action.

If it is determined that Services should conduct the investigation, the following procedure will be followed:

1. Assign an IAD Control Number to the matter and log pertinent information into the IAD Log Book and the Records management System (PISTOL) IAD module.
2. Complete a form letter to the Major or Deputy Chief of the affected service.

3. Attach copies of any relevant documentation.
4. Attach a “Notification of Pending Investigation” letter.
5. Forward the package through the chain of command for review and attach an Investigation Tracking Record cover sheet.
6. A copy of the package will be hand delivered to the office of the Major or Deputy Chief of the affected service and the tracking record signed.
7. The Control Copy will be maintained in the Internal Affairs Division.

If it is determined that the Internal Affairs Division will conduct the investigation, an IAD Investigator will be assigned the matter. The following procedure will be followed:

1. Assign an IAD Control Number to the matter and log pertinent information into the IAD Log Book and the Records management System (PISTOL) IAD module.
2. At the appropriate time, which does not interfere with the investigative process, notify the officer involved of the pending investigation.
3. Conduct a thorough investigation and submit a report, in the standard format, to your supervisor for review.
4. After the review, finalize the investigation making any additions or corrections as necessary. After final review, a cover sheet completed by the Captain should be attached to a completed copy of the investigation. The investigation is then hand carried to the affected Major or Deputy Chief.

The investigation will then be forwarded to the Use of Force Board, if applicable.

Upon final disposition, by the Major, Deputy Chief, Assistant Chief, or Chief of Police, the investigative package will be returned to the Internal Affairs Division for filing. The Administrative Specialist will handle in the same manner as returned complaint investigations.

USE OF FORCE REPORTS

The Administrative Specialist will process Use of Force reports as follows:

1. Record the pertinent information from the PD-35 in the “Use of Force” book and the Records Management System (PISTOL) Use-of-Force module.
2. Forward a copy of the PD-35 to the Lieutenant to be used in the Early Warning System.

3. Provide a copy to the Sergeant assigned to maintain the Use-of-Force database.
4. File a copy of the PD-35 in the officer's name file.

ON CALL PROCEDURE

A schedule will be established so that an IAD investigator will be on call at all times, and the on-call investigator must be available by telephone or pager.

If the on call investigator receives a call after hours they will notify the Internal Affairs Lieutenant of the call. If appropriate, they will respond to the call and handle as necessary. The on call investigator will only be called out when authorized by the Chief of Police, Assistant or Deputy Chief, any Majors, the Watch Commander, or the Officer-In-Charge or Lieutenant of the Internal Affairs Division.

FILE DESTRUCTION

Prior to June 30th of each year, the Internal Affairs Division will purge the eligible Internal Affairs files for destruction. The Internal Affairs Division will supervise the destruction of these records in compliance with Title 17 – State Archives Rules. The information will be recorded detailing the investigation numbers and the date of destruction.

PERSONNEL

Prior to any personnel being transferred into the Internal Affairs Division, the following will be completed on the individuals:

1. IAD File Check
2. Criminal Records Check
3. DMV records check

Internal Affairs personnel may work off-duty jobs which do not pose a conflict with their duties, in accordance with General Order 4-6.

INVESTIGATION TIMELINES

Field investigations shall not exceed 35 working days. Internal affairs investigations shall not exceed 75 working days. Extensions may be granted for specific reasons when documented by the investigating detective.

All investigations are to be started as soon as possible, regardless of whether the complainant is the defendant in an on-going court case--investigations will not be delayed to see if the

complainant requests to “drop” the investigation after the court case. Cases which are otherwise finished need not be held until the final adjudication of the court case, unless the court outcome is a specific factor essential to making a determination of the outcome of the investigation. However, if the sole complainant is represented by a defense attorney who advises the complainant to say nothing until the case is over, then the case may be held until the conclusion of the court case.

INTERNAL CRIMINAL INVESTIGATIONS

If an allegation or preliminary investigation reveals the possibility of criminal wrongdoing by a Department employee, the Internal Affairs Division shall coordinate an investigation. If specific investigative expertise is needed, a member of the Detective Division or other unit may serve as the lead investigator. Also, the Chief of Police may direct that a different unit or agency conduct the investigation.

If, during the course of an administrative investigation, evidence develops which would warrant a criminal investigation of the matter, the IAD investigator must immediately stop and issue Miranda warnings to any suspected officers. The investigation will then continue as a criminal investigation, as described above.

When a complaint of misconduct against a police employee is received which warrants a criminal investigation, the investigator will not immediately compile an IBR. To do so would tend to compromise the investigation, as the basic information on an IBR is available to the public, and IBR information is available to police officers through the PISTOL system. The PD-82, Citizen’s Complaint Form, will be sufficient to initiate the criminal investigation, and an IBR will not be completed until and unless it becomes necessary as part of the investigation.

INTEGRITY TESTS

The Internal Affairs Division is responsible for conducting Integrity Tests.

An integrity test is a random or employee specific scenario used to determine possible misconduct on the part of the employee.

The Integrity Testing program is the pro-active approach to prevent corruption within the Richmond Police Department. The purpose of this program is to help establish a sense of omnipresence throughout the department with the goal of having members handle each assignment as if it were an Integrity Test. In addition, the need for additional training can be assessed and recommendations made for follow-up.

PROCEDURES

Types of Integrity Tests:

Level One: Used when there is **specific** information that an employee is involved in criminal misconduct.

Level Two: A **random** test used as an integrity monitoring system for possible criminal misconduct by police employees.

An **Integrity Test Request (IT-1)** must be completed by the supervisor requesting an Integrity Test. The request should be forwarded to the Officer-in-Charge of the Internal Affairs Division.

This information is provided as a guide for purposes of uniformity. Investigators should bear in mind that each integrity test is unique. Each test will be controlled as tightly as possible, consistent with the objective of obtaining a fair and impartial conclusion. Once a test commences, individual perceptions, combined with uncontrollable field conditions may produce unexpected behavior. Supervisors and Investigators must remain alert to any developing risks to participants and non-participants alike.

An integrity test requires that an artificial condition or situation be created by investigators designed to generate a reaction by the subject of the test. This reaction is monitored as closely as possible without jeopardizing the validity of the test, thus allowing the subject the complete freedom to perform, or fail to perform, in a manner consistent with legal or departmental guidelines.

Once the Chief of Police has granted final approval for an Integrity Test, a scenario must be developed for the test. Simply stated, the test should mirror the allegation/circumstance. Scenarios should be kept as simple as possible to keep potential problems to a minimum. The story must be believable and have creditability. Once a scenario is selected, a test site should be chosen. The site chosen must appear realistic; the site selection should be surveyed several times if possible. Under ideal conditions, a physical survey of the site should be conducted on the same day of the week and at the same time frame when the integrity test will be conducted. Due to changing conditions, a final survey is recommended just prior to the integrity test to check for potential problems.

GUIDELINES FOR PARTICIPANTS

- Know your role – Review the role or assignment you have. Try to foresee issues that could surface during the course of the test. Consider visiting the location of the actual test a few times to familiarized yourself with the area.
- Appearance – Dress appropriately for the area and role. Wear a piece of clothing that would make you easily recognizable to other participants.
- Currency/Property – If currency will be a part of the integrity test, remove all personal currency from your person. If other property is involved, make sure a description and identifying marks, i.e. serial numbers are recorded prior to the test.

- **Emergency Signals** – Participants should be familiar with two (2) emergency signals. One physical and one verbal. The signal should be used when a participant feels his safety is endangered or the test has been compromised.

OPERATIONAL PLAN

A formalized Integrity Test Operational Plan (IT-3) must be developed for each integrity test involving an actual field operation.

- **Personnel and Assignments** – A listing of all personnel used and their specific assignment.
- **Equipment** – a listing of equipment to be used during the test. The list should include the make, model, license plate and color of all vehicles. Radio, cell phone and pager numbers should be provided to all personnel involved in the test.
- **Maps/Diagrams/Operational Plan** – A copy should be supplied to all personnel involved in the test.
- **Staging Area** – Exact locations of pre and posttest areas should be made available to all personnel.
- **Telephone Numbers** – A list of telephone numbers for advisory and Command Police personnel should be maintained by the Team Leader.

POSSIBLE TEST RESULTS

PASS – The department member responds to the planned scenario and takes proper action.

FAIL – The department member responds to the planned scenario and commits a criminal action. Criminal violations will be referred to the Commonwealth Attorney's Office for review.

INCONCLUSIVE – The department member does not engage in the testing scenario.

LEGAL CONSIDERATIONS

Integrity Tests should be carefully structured to avoid any suggestion that department member becoming involved in the procedure are victims of entrapment. Their action or inaction should be totally self-determining and no influence can be exerted upon them that would sway their judgment. Test participants should be offered the opportunity to choose a course of action.

The RPD Office of the Inspector General will approve all Integrity Test scenarios before they are implemented.

SAFETY

In the event there is indication that the safety of the testing team, subject officer(s), witnesses, other officers or the public is in jeopardy, the test will be immediately terminated.

MAINTENANCE OF FILES

Such files shall be confidential and will be maintained by the Internal Affairs Division. The files will be maintained and destroyed in accordance with departmental policy.

SPECIFIC PROCEDURES AND RESPONSIBILITIES

Investigation and Interviewing of Employees – Responsibilities of the Investigator

Notify the affected employee(s) of the investigation as soon it can be reasonably accomplished without compromising the investigation, by completing the notification form, (PD-2A).

Complete the Complainant's Acknowledgement letter providing the name and phone number of the investigating supervisor and mail it to the complainant. Retain a copy of the letter with the complaint package.

Designate a reasonable time and place to conduct the investigative interview. When practical, it shall be done when the employee under investigation is working his/her normal shift.

Ensure that interviewing sessions are for reasonable periods that allow for personal necessities and rest periods.

Inform the employee of his/her name and rank, the identities of any other individuals present during the interview, and the nature of the investigation.

Use Administrative Proceeding Rights Form, (PD-22) to notify the employee of the administrative nature of the interview.

If the employee asks about legal counsel, advise that employees do not have the right to be represented by legal counsel during interviews designed to gather information for administrative purposes only, but that the employee's attorney may be present to observe only, and that any interference by the attorney will be the responsibility of the employee and will not be allowed.

Do not require or request the employee to disclose any item of his/her property, income assets, source(s) of income, debts or personal or domestic expenditures, including those of any member of his/her family or household, unless such information is necessary in investigating a possible conflict of interest, with respect to the performance of his/her official duties, or unless such

disclosure is required by law, or unless such information is specifically, directly, and narrowly related to the performance of duty and/or fitness for duty.

Require the employee to submit to a medical or laboratory examination, participate in a line-up or be photographed when such activity is specifically, directly, and narrowly related to the performance of duty and/or fitness for duty.

Prepare an investigative report using the format established by the Chief of Police.

For complaints assigned to services, the investigating supervisor shall forward the completed report to the affected Major/Executive Director within thirty (30) calendar days of the receipt of the complaint. If the investigation cannot be completed within thirty days, the assigned investigating supervisor shall send a written Request for Extension (PD-2G), including the justification for such request, to the Major/Executive Director of the affected service. If the Major/Executive Director approves, a copy will be sent to the Internal Affairs Division.

Adjudication of Investigations – Responsibilities

The Chief of Police or designee will adjudicate all investigations, with a final disposition for each allegation classified as one of the following:

- Substantiated - The allegation is true.
- Unfounded - The allegation is false.
- Exonerated - The incident occurred, but the employee acted lawfully and properly.
- Not Substantiated – The evidence is not sufficient to prove or disprove the allegation.
- Secondary Violation Substantiated - Substantiated violation not alleged in the complaint, but disclosed during the investigative process.

The Internal Affairs Division will send a letter to each employee who has been investigated, advising the disposition of the investigation, within seven (7) days of receipt of the final disposition from the Chief of Police or designee.

The employee's supervisor will deliver the notification letter to the employee and have the employee sign a duplicate copy. The supervisor will return the copy to IAD for filing.

Major/Executive Director: If allegations are substantiated, and/or secondary violation substantiated, the affected Major/Executive Director will notify the employee(s) involved.

IAD will notify the complainant of the disposition of all unfounded, exonerated, and not substantiated complaints.

The DRO will notify the complainant of the disposition of all substantiated complaints.

Maintenance of Records – Responsibilities

The Internal Affairs Division shall maintain confidential reports and records of all internal investigations involving police employees in a secure area. A consecutively numbered "Internal Affairs Register" shall be kept as the official record of internal investigations and a "Control Card" shall be kept for each employee with internal investigations listed individually. These files may be kept electronically. The Internal Affairs Register will include:

- Investigation number
- Date received
- Name of complainant or requesting authority
- Name of employee(s)
- Nature of investigation
- Name of assigned investigator or Service
- Date investigation was completed
- Date returned to IAD for filing
- Disposition

The Control Card will include:

- Date received
- Investigation number
- Name of complainant or requesting authority
- Nature of investigation
- Disposition

Information from IAD files may be shared with investigators from other law enforcement agencies to assist in background investigations for employment of current and former RPD employees, as Virginia law allows the Chief of Police to disclose information about a former law-enforcement officer's job performance to a prospective law-enforcement employer (the Chief of Police is presumed to be acting in good faith and, unless a lack of good faith is shown by clear and convincing evidence, is immune from civil liability for such disclosure or its consequences). Investigators will be required to provide IAD with a copy of a signed release from the employee authorizing the release of such information.

POLYGRAPH POLICY

The VA Code, Section §40.1-51.4:4, states in part: "... the Chief Executive Officer of a law-enforcement agency...may, by written directive, require an employee to submit to a lie detector test related to a particular internal administrative investigation concerning allegations of misconduct or criminal activity. No employee required to submit to a lie detector test shall be discharged, demoted or otherwise discriminated against solely on the basis of the results of the lie detector test....The analysis of any polygraph test charts produced during any polygraph examination administered to a party or witness shall not be admissible in any proceeding...conducted by any county, city or town over the objection of any party except as to disciplinary or other actions taken against the polygrapher."

The severity of the allegation and the lack of other possible sources of evidence are the determining factors as to when an employee may be ordered to submit to a polygraph test. In situations where no evidence exists other than the complainant's allegations, the complainant may be asked to submit to a polygraph test. If the complainant passes the test, then the accused employee may also be ordered to submit to a polygraph test.

If the Chief of Police determines that it is reasonably necessary to utilize a polygraph examination, as an investigative tool to test the dependability of prior answers given by a suspected employee to questions specifically, directly and narrowly related to his/her official duties, a written order requiring the employee to submit to a polygraph examination may be made under pain of dismissal for refusal to do so.

CRIMINAL INVESTIGATION OF POLICE EMPLOYEES

If an allegation or preliminary investigation reveals the possibility of criminal wrongdoing by a Department employee, the Internal Affairs Division shall be notified. IAD will determine whether the allegation will be investigated by an IAD detective, a detective from another unit of the Department or both.

A clear distinction will be maintained between the criminal portion of an investigation and the administrative investigation of the incident. Officers who are suspects in a criminal investigation will be clearly so advised, and given Miranda warnings prior to any questioning by the assigned IAD detective. Any administrative information-gathering related to the incident under investigation, such as the preparation of the Use of Force Report (PD-35), Firearms Discharge/Assault Report (PD-10) or similar information will be done by the suspect officer's supervisor and chain-of-command. Under such circumstances, any PD-35s or other administrative documents related to the case which are forwarded to IAD for recordkeeping, will not be used as part of the criminal investigation, unless the suspect officer waives his/her Miranda rights.

The IAD detective will not immediately compile an IBR. The PD-2, will be sufficient to initiate the criminal investigation and an IBR will not be completed until and unless it becomes necessary as part of the investigation. The basic information on an IBR is available to the public and IBR information is available to police officers through the PISTOL system, which could compromise the investigation.

The administrative investigation will begin when the criminal investigation is completed, or as directed by the Chief of Police or designee.

JOB PERFORMANCE EARLY INTERVENTION TRACKING SYSTEM (JPEITS)

The Job Performance Early Intervention Tracking System is an automated system to help an employee's supervisor identify any problems that may be developing with the employee, so that the supervisor may take appropriate action to provide assistance to the employee before the problems become severe. There is no stigma attached to an Early Intervention Notice.

The system will generate an Early Intervention Notice whenever an employee is the subject or primary officer in any three (3) noteworthy incidents in a six (6) month period. For the purposes of the Early Intervention Notice, a noteworthy incident is defined as any one of the following:

- a) IAD or complaint investigation
- b) Use of force
- c) Police vehicle accident
- d) Vehicular pursuit
- e) Injury to officer
- f) Imposition of disciplinary action

Roles and Responsibility of Supervisors under JPETIS

All police supervisors will review the information forwarded with the Early Intervention Notice.

All police supervisors will review the employee's overall job performance, using the Job Performance Early Intervention Tracking System (JPEITS) Notice Response (IAD Form 17) to assist with identifying both positive and negative job performance criteria.

All police supervisors will discuss job performance issues with the involved employee, as appropriate.

All police supervisors will identify and initiate actions to assist the employee, including mentoring, counseling, referral to the Richmond Employees' Assistance Program, or the initiation of disciplinary action.

All police supervisors will utilize the IAD Form 17 to document all actions taken, and forward the IAD Form 17 through the chain-of-command to IAD.

The employee's chain-of-command will review all IAD Form 17s to ensure that adequate review of the employee was conducted.

The employee's chain-of-command will direct additional remedial action be taken toward the employee when appropriate.

The employee's chain-of-command will forward the IAD Form 17 to IAD for filing.

Roles and Responsibilities of IAD under JPTEIS

IAD will ensure that all noteworthy incidents and relevant information is entered in to the IAD PISTOL database.

IAD will respond to an automated Early Intervention PISTOL Alert by preparing and forwarding the alert information to the affected employee's supervisor, along with instructions for how to respond.

IAD will receive and file all supervisory responses to Early Intervention Notices.

IAD will periodically, but at least annually, evaluate the system to determine if notice threshold levels are appropriate and if supervisory responses are adequate.

INTEGRITY TESTING

An Integrity Test is a procedure to determine possible misconduct on the part of an employee.

Roles and Responsibilities of Internal Affairs Division Regarding Integrity Testing:

Will have operational control and oversight over every Integrity Test that is conducted;

Will prepare an operational plan prior to the test; and,

Will maintain all Integrity Test files as confidential IAD files, in accordance with Department policy, legal requirements and General Schedule 17 of the State Records Retention and Disposition Schedule.

Chief of Police or designee -- will approve all Integrity Test Operations Plans prior to implementation.

Commonwealth's Attorney's Office -- all Integrity Test operations involving possible criminal misconduct must have prior approval from the Commonwealth's Attorney's Office.

RANDOM DRUG SCREENING

Random Selection Process

The random selection procedure is a computer-based number generator by which a number is matched with a valid position number and the employee's social security number. For additional information regarding pre-employment, post-accident, reasonable suspicion, return-to-duty and follow-up substance detection testing selection process and procedures, refer to the City of Richmond's Substance Abuse Policy, Administrative Regulation #4053.

1. The City maintains a variety of “pools” from which the random selection process will take place. The percentage of persons to be tested from each of these pools is determined as mandated by City regulations.
2. Within every twelve (12) month calendar period, the City randomly tests a percentage from each pool, as designated by Human Resources. The specific percentage is maintained in Human Resources for review and inspection. An employee may be randomly picked more than once or not picked at all during a twelve month period.
3. The selection of employee names for random testing is conducted only by persons in the Department of Human Resources who are responsible for the administration of the Substance Abuse Policy. Any other person who requires an employee to submit to a random substance detection test shall be subject to disciplinary action, up to and including dismissal from City employment.
4. The SAP Coordinator or designee shall notify the employee’s supervisor in person or in a telephone conversation, when an employee has been selected for random test(s). The supervisor shall notify the employee by telephone or in person of his/her selection. Voicemail messages, text messages and emails will be considered insufficient notifications; however they may be used as follow up to telephone or in person communications. During the notification conversations, employees should be advised that they have 45 minutes to report to the testing site. If the selected employee is out on leave, the SAP Coordinator shall be immediately notified in writing. The supervisor shall document the notification on the Employee Notification of Random Substance Abuse Test form, located at X:\RPDForms\Safety Officer and Risk Management\SAP - Employee Notification of Random Substance Abuse Test.pdf, and shall complete and return the Employee Notification of Random Substance Abuse Test Form to the Internal Affairs Division within 24 hours of notification. The Employee Notification of Random Substance Abuse Test form may be hand delivered to IAD or it may be faxed to IAD at 646-6821.
5. The employee shall report for testing within 45 minutes of being notified by his/her Commander and/or civilian employee equivalent. Failure to report and/or submit to random testing within the allotted time frame may result in disciplinary action, up to and including dismissal from City employment.
6. When the selected employee is working in facilities outside of City limits and is unable to report to testing within 45 minutes, the employee’s Commander and/or civilian employee equivalent shall immediately notify the Police Department SAP Coordinator.